IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-

WRIT APPEAL NO : 1482 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/07/2005 in WP NO : 21405 OF 2003 on the file of the High Court.)

Between:

Manne Bisxapathi, S/o. Kotaiah
R/o. Ananthram Village, Mandal,

Jinnaram, Medak District,

..... APPELLANT

AND

1 Jinka Chinna Sathaiah S/o. Ramaiah
Medak District,
2 Jina Gopal, S/o. Narsaiah
Medak District,
3 Manne Sadaiah S/o. Durgaiah
Medak District,
4 The Election Officer, Stage-1,

Grampanchayat Election-2001,

Mr. V. Ramachandra Reddy, Teacher,
Govt. High School, Jinnaram, Medak District,
5 The Mandal Revenue Officer,

Jinnaram, District Medak,
6 The Mandal Development Officer,

Jinnaram, District Medak,

7 The District Election Authority

-cum-District Collector, Medak,

.....RESPONDENTS

JUDGMENT: (Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)

This is an appeal filed against the order of learned single Judge passed in W.P.No.21405 of 2003, dated 27-07-2005.

Writ petitioner was elected as Sarpanch of Antharam Grampanchayath, Jinnaram Mandal. An election petition came to be filed before the competent Election Authority, who is Junior Civil Judge, Narsapur, to declare the election of the writ petitioner invalid on the ground that he had three children on the relevant date. The main controversy before the Election Authority was whether the third child of the writ petitioner was born on
24-04-1994 or 25-10-1995. This was a question of fact, which was appreciated on the basis of evidence by the learned Civil Judge, and he came to the conclusion that the actual date of birth of third child of the writ petitioner was 25-10-1995. Aggrieved of the order passed by the learned Civil Judge, the appellant-petitioner filed the writ petition, which has been dismissed by the learned single Judge, who has also agreed with the conclusions drawn by the learned Civil Judge.

It is well known that in Writ Petitions, Courts are not expected to act as an appellate authority and appreciate evidence. However, this Court under Article 226 of the Constitution of India interferes if there is a case of no evidence. We have found in this case that the learned Civil Judge relied upon Certificate issued under the provisions of Registration of Births and Deaths Act, 1969.

Before the Election Authority, the respondents substantiated their case by examining the nurse, who was present at the time of birth of the third child of the writ petitioner, and who had sent the information to the Registrar with regard to the birth of the child. On the other hand, the appellant-writ petitioner had produced a

Certificate issued by some doctor suggesting that the date of birth of his third child was 24-04-1994. The learned Counsel for the appellant has drawn our attention to a judgment reported in ***'Bhukya Bujji vs. Bhukya Saraswathi and others'.*** In our opinion, this judgment is not relevant for the purpose of present controversy, as this Court is not going to

re-appreciate the evidence already produced. We do not find that there is any scope for us to interfere in the matter.

Writ appeal is misconceived, and is, accordingly, dismissed. No costs.

(Bilal Nazki, A.C.J)

17th August, 2005

(G.Chandraiah, J)

LUR